

<p style="text-align: right;">Page 61</p> <p>1 L. FLANAGAN</p> <p>2 director, and I know -- well, the union came 3 in and discussed it with, actually, the 4 general manager.</p> <p>5 Q Who is the general manager?</p> <p>6 A Shane Krige.</p> <p>7 Q What did you discuss with 8 Mr. Evangelista?</p> <p>9 A Well, I just said -- I just, you know -- 10 he said -- like he pawned it off to human 11 resources, it's up to them, is what he was 12 saying. So I said, me and Carlos are the same 13 situation, and Evelio, I mean, what's the 14 difference between me and him, we all do the 15 same job, we all worked the same -- roughly 16 the same amount of years there, did the same 17 job. I went down, told them the situation, 18 they said, yes, you're a front bartender; 19 Carlos and Evelio went down and did the same 20 thing and they said no. They actually did -- 21 they actually said in the files it said 22 service bartender. But the thing is, we had 23 two managers prior to closing the hotel who 24 came back and reopened it, so they would have 25 seen them working as front bartenders in the</p>	<p style="text-align: right;">Page 63</p> <p>1 L. FLANAGAN</p> <p>2 A No.</p> <p>3 Q And Shane Krige, you stated that you 4 were involved in a conversation with him as 5 well?</p> <p>6 A No. The business agent came in, Eddie 7 Cedeno, at the time, and you know, he asked 8 Shane Krige to transfer him over, and he said 9 he would get back to him, and he called him 10 back, whatever, and in the end he just said, 11 no, they're service bartenders.</p> <p>12 Q Why do you think -- let me withdraw 13 that.</p> <p>14 Did Carlos ever tell you why he believed 15 he was assigned to work as a service bartender 16 in 2008 by the Plaza instead of being assigned 17 to work as a front bartender?</p> <p>18 A Yeah. I mean, basically he said there's 19 discrimination, he's Spanish and I was white, 20 and he wasn't saying it of me but that's 21 basically the way it looks like. You know, 22 there's a -- an awful lot of people came back 23 to the hotel -- doormen, waiters, cooks -- and 24 we all knew each other, some of us about 25 twenty years, and you know, they're all coming</p>
<p style="text-align: right;">Page 62</p> <p>1 L. FLANAGAN</p> <p>2 old hotel.</p> <p>3 Q Which managers?</p> <p>4 A It would have been Anthony Evangelista 5 and Kareem, I forget his last name.</p> <p>6 Q Did Mr. Evangelista ever tell you why 7 the Plaza had assigned Carlos Rivera to work 8 as a service bartender after the hotel 9 reopened in 2008?</p> <p>10 A No, he never gave me reason. He just 11 said that it's a human resources decision.</p> <p>12 Q What did you discuss with Mr. Bueno 13 about Mr. Rivera's situation?</p> <p>14 A Well, we just in general -- the same 15 conversation, you know, I went down, did the 16 same thing, got the job behind the front bar, 17 they transferred me over, and they didn't with 18 Carlos and Evelio, and they said it's a human 19 resources decision.</p> <p>20 Q So you just pretty much restated what 21 happened?</p> <p>22 A Yes.</p> <p>23 Q Did Mr. Bueno say anything regarding 24 Mr. Rivera's assignment to work as a service 25 bartender?</p>	<p style="text-align: right;">Page 64</p> <p>1 L. FLANAGAN</p> <p>2 back to their positions -- if someone's a 3 doorman, he's back as a doorman, he's a 4 cook -- then me, Carlos, Evelio, the three 5 bartenders come back and all of a sudden I'm 6 in the front bar and they're pushed back to 7 the Palm Court. So everybody's asking the 8 same question -- why.</p> <p>9 Q You said everybody was asking the 10 same --</p> <p>11 A All the guys -- like, a lot of guys we 12 all know for twenty years, they said what 13 happened with Carlos and Evelio, why are they 14 down there and why are you over there -- they 15 should be over there with you, and I said, 16 yes, they should be, but they won't give us an 17 answer. So the assumption is because they're 18 Spanish. I don't know what -- that's the 19 assumption. I mean, I can't say what people 20 are --</p> <p>21 Q How about yourself, what do you think?</p> <p>22 A Yeah, I can't -- I can't -- it's either 23 that or -- I mean, I can't see another reason. 24 I mean, I know that some of these -- some of 25 these new hires, the bartenders, because they</p>

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1	L. FLANAGAN	1	L. FLANAGAN
2	were friends of certain managers they got the	2	Q He was down?
3	job which is good -- I mean, that's okay, but	3	A Yeah.
4	you can't just jump ahead of people that have	4	Q When you say down, can you tell us
5	been there for years. You can hire them	5	what you mean by that?
6	after, yeah, sure.	6	A I suppose upset, despondent.
7	(Whereupon, an off-the-record	7	Q Why do you say that?
8	discussion was held.)	8	A By talking to him, you know. You know,
9	(Whereupon, a short break was	9	he felt hardened by it, I would say.
10	taken.)	10	Q Now, I'm going to draw your attention
11	Q After 2008, when you returned to the	11	back to P5. Do you know who initiated this
12	hotel, the Plaza Hotel, did you ever discuss	12	arbitration?
13	with any managers Carlos's situation -- to be	13	A It would have been Eddie Cedeno.
14	specific, the fact that he used to work at the	14	Q You're -- are you a union delegate?
15	Plaza in 2005 as a front bartender and when he	15	A I am now.
16	came back in 2008 he was assigned to work as a	16	Q What's the process, if you know, for
17	service bartender?	17	a dispute to culminate in arbitration like
18	A Yeah. Anthony -- Anthony Evangelista	18	the dispute in P5?
19	would have been would I would have talked to.	19	A Yeah, what happened when you have
20	Q Okay. And did you already -- what did	20	a situation like this, you would call in
21	you discuss?	21	the business agent, and he would talk to
22	A Yeah, I just said -- I said, how come,	22	Rajan, and if they couldn't resolve it,
23	you know, you put me back in the front bar	23	then they'd would go to the impartial
24	when I went up to human resources, how come	24	chairman.
25	Carlos and Evelio weren't, and he said it's a	25	Q And this decision, P5, is that from
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1	L. FLANAGAN	1	L. FLANAGAN
2	human resources decision.	2	the impartial chairman?
3	Q Did he say who in human resources?	3	A Yes.
4	A Rajan.	4	Q When you testified at the arbitration in
5	Q Rajan Lai?	5	connection to P5, did you observe anybody else
6	A Yeah.	6	testify?
7	Q Who said that it was Rajan Lai's	7	A Carlos testified, Eddie Cedeno, Emilio,
8	decision?	8	Rajan Lai.
9	A Anthony Evangelista.	9	Q Did you witness Rajan Lai testify?
10	Q When did that conversation take place,	10	A Yes.
11	approximately?	11	Q Do you know what Rajan Lai said as
12	A Well, it would have been sometime in	12	a justification for -- let me withdraw
13	April, I presume, when we opened the Rose	13	that.
14	Club.	14	What did Rajan Lai say?
15	Q And did you observe what effect, if any,	15	A Basically the question was asked why
16	the change in position had on Carlos Rivera in	16	they weren't front bartenders --
17	2008?	17	Q When you say they, who are you referring
18	A Yeah. He was, you know -- I presume he	18	to?
19	was disappointed, probably of felt a bit kind	19	A Carlos and Evelio. So Rajan's answer
20	of humiliated.	20	was that -- I believe, I'm trying to think
21	Q Did you observe like any change in how	21	back -- I believe he said that they weren't
22	Carlos behaved at work?	22	front bartenders, that they were service
23	A Well, he still did his job, you know,	23	bartenders in the files in the human resources
24	he's still quite a pleasant man, but you know,	24	offices.
25	he was down about it, I would say.	25	Q Did he say anything else?

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1	L. FLANAGAN	1	L. FLANAGAN
2	A No. I mean, he could have, I can't	2	Q Do you know on what basis?
3	remember now exactly.	3	A I believe race.
4	Q Have you ever socialized with Carlos	4	Q Anything else?
5	Rivera outside of the Plaza?	5	A No.
6	A No.	6	Q How do you know that?
7	Q Okay. I have no further questions.	7	A Well, from talking to him at work.
8	MR. McLANE: Can you just make	8	Q When was the first time that you learned
9	sure the witness has all the	9	that Mr. Rivera was suing my clients?
10	exhibits.	10	A I think after this impartial chairman
11	MR. ZAPATA: Sure.	11	was all said and done, I think after that then
12	THE WITNESS: I just have to go	12	he pursued a civil case.
13	to the bathroom.	13	Q What did he tell you about pursuing a
14	(Whereupon, an off-the-record	14	legal case?
15	discussion was held.)	15	A He said he was going to hire a lawyer
16	MR. ZAPATA: Two more	16	and look into the situation.
17	questions.	17	Q And did you know what situation he was
18	MR. McLANE: Sure.	18	going to look into?
19	Q When you -- when you returned to the	19	A Yeah. He wanted -- you know, he felt
20	hotel -- the Plaza Hotel in 2008, and you	20	that he was discriminated against because he
21	were initially appointed to work as a service	21	wasn't given the front bartender position
22	bartender then as a front bartender shortly	22	back.
23	thereafter, did you have to serve a	23	Q And this was after he received a
24	probationary period?	24	decision from --
25	A No. The new hires did, but people who	25	A From the impartial chairman.
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1	L. FLANAGAN	1	L. FLANAGAN
2	were recalled didn't.	2	Q -- from the impartial chairman? Just
3	Q That was it. Thanks.	3	one more instruction, in everyday conversation
4	EXAMINATION BY	4	we anticipate what the other person is going
5	MR. McLANE:	5	to say before they're done saying it, but it
6	Q Mr. Flanagan, my name is Bill McLane,	6	will help the court reporter if you wait until
7	and I'm with the law firm of Littler	7	I finish my question before you answer, and I,
8	Mendelson, and my firm and I represent the	8	in turn, will wait until you finish your
9	defendants in the matter that Mr. Rivera has	9	answer before I ask my next question. It's
10	brought against my clients. And just a couple	10	tough to do, but we'll try because helps the
11	things -- while I'm asking you questions, if	11	court reporter to have a clean record.
12	you do need to take a break for any reason,	12	Just so I'm clear, the impartial
13	just let me know, and we'll take a break, you	13	chairman ruled in Mr. Rivera's favor, correct?
14	don't have to tell me why but please do that.	14	A Yes. They got backpay for the money
15	And you understand that you're under oath	15	loss.
16	today --	16	Q And how did you become aware of that?
17	A Yes.	17	A Well, I was at the case, but somebody
18	Q -- and that your obligation to testify	18	came in one day and somebody told me Carlos
19	truthfully today is the same as if we were in	19	won his case.
20	a court of law; you understand that?	20	Q Okay. And it was after that, that he
21	A Yes.	21	told you he was looking to hire a lawyer?
22	Q Do you know why Mr. Rivera is suing my	22	A Yes.
23	clients?	23	Q Okay. And did he tell you why he was
24	A Yes, I believe so. I believe he	24	looking to hire a lawyer?
25	believes he's discriminated against.	25	A Again, he said he felt he was

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1	L. FLANAGAN	1	L. FLANAGAN
2	discriminated against, that it was wrong what	2	A Not that I can remember.
3	the hotel did.	3	Q Did you talk to anybody else after --
4	Q Did he tell you he thought he was	4	well, strike that.
5	discriminated against because of his race?	5	Did you talk to Mr. Tejada after the
6	A Yes.	6	impartial chairman's decision?
7	Q What is Mr. Rivera's race?	7	A Yes.
8	A Hispanic.	8	Q And did Mr. Tejada indicate that he was
9	Q Do you know where he's from?	9	looking for a lawyer to sue the Plaza Hotel
10	A Puerto Rico or Dominican Republic.	10	for race discrimination?
11	Q You're not sure which?	11	A Yes.
12	A I'm not sure.	12	Q And do you know whether or not he has
13	Q Have you ever had any discussions with	13	done so?
14	Mr. Rivera's about where he was from?	14	A No.
15	A Yes. About his parents, I think one is	15	Q Prior to today, when was the last time
16	Puerto Rican, one's Dominican or something	16	you saw Mr. Rivera?
17	like that.	17	A Over ten days ago.
18	Q Do you know where Mr. Rivera was born?	18	Q When was the last time you spoke to
19	A No.	19	Mr. Rivera regarding this lawsuit?
20	Q Do you know whether or not he's an	20	A Few weeks ago.
21	American citizen or not?	21	Q And what was the nature of that
22	A No.	22	discussion?
23	Q What color is Mr. Rivera's skin?	23	A No. He was just -- I got subpoenaed and
24	A I would say light brown.	24	he was just reminding me that it was coming up
25	Q And you testified about the skin color	25	and the date.
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1	L. FLANAGAN	1	L. FLANAGAN
2	of some other folks earlier, and can I take it	2	Q The date of this deposition?
3	that the people that you identified as having	3	A Yes.
4	light brown skin, they would have the same	4	Q Did Mr. Rivera tell you that you were
5	skin as Mr. Rivera?	5	going to be subpoenaed before you were
6	A Yes.	6	subpoenaed?
7	Q How old is Mr. Rivera?	7	A No.
8	A Mid-forties.	8	Q So you got the subpoena --
9	Q How do you know that?	9	A At work.
10	A Well, we worked in the hotel roughly	10	Q -- it was a surprise?
11	around the same time, and we discussed	11	A Yes.
12	birthdays and ages before.	12	Q You were served at work?
13	Q Do you know Mr. Rivera's birthday?	13	A Yes.
14	A No. Birthday, no.	14	Q Okay. And you weren't expecting that?
15	Q Do you know where he lives?	15	A No, I knew down the line that I would
16	A New Jersey.	16	have to come and testify.
17	Q Okay. When after the impartial	17	Q And why did you know that?
18	chairman's decision in favor of Mr. Rivera	18	A Because he said he was going to call
19	giving him backpay, was that the first time he	19	witnesses for people who, you know, worked in
20	mentioned to you that he wanted to sue the	20	the hotel before, saw him working at the front
21	hotel for race discrimination?	21	bar.
22	A I believe so.	22	Q And have you ever spoken to Mr. Rivera's
23	Q Okay. And prior to that he had never	23	lawyer prior to today?
24	talked to you about suing the hotel about race	24	A One short discussion --
25	discrimination?	25	Q When was that?

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1	L. FLANAGAN	1	L. FLANAGAN
2	A -- over the phone. It was -- it	2	Q You would have told Larry -- well,
3	wouldn't be long after he was hired by Carlos.	3	strike that.
4	Q What did you -- what did you discuss?	4	Did you tell Larry the reason why
5	A It was just that I -- he was saying that	5	Mr. Rivera was suing the Plaza?
6	he was Carlos's lawyer, introduced himself,	6	A Yes.
7	and maybe we could have a meeting some day.	7	Q And what was the reason?
8	Q Anything else?	8	A I would say that -- it's common
9	A No.	9	knowledge because we'd all worked together for
10	Q Did you ever have that meeting?	10	years, and seniority, and then when this case
11	A No.	11	came about, and then -- Carlos has to hire a
12	Q Other than Mr. Rivera's and his	12	lawyer, he's pursuing his case against
13	attorney, have you spoken to anybody else	13	discrimination.
14	about this lawsuit?	14	Q You said that to Larry?
15	A Yes. At the hotel.	15	A Yeah.
16	Q Who?	16	Q What did Larry say?
17	A Evelio, the bartender, and a couple the	17	A Larry said, yeah, he -- he said, oh,
18	waiters that work there a long time.	18	yeah, really -- you know, he just made an
19	Q What are the waiters names?	19	off-the-cuff remark, you know, oh, really, is
20	A Larry -- you want the full name or	20	he going to do that. It wasn't a big
21	just --	21	discussion --
22	Q Yeah.	22	Q And what about Francisco?
23	A Larry Gobin.	23	A Yeah. Francisco, I said the name thing
24	Q Gobin?	24	to him, yeah.
25	A Yeah. G-O-B-I-N. Francisco Marquez.	25	Q What did Francisco say?
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1	L. FLANAGAN	1	L. FLANAGAN
2	Q Anyone else?	2	A He was surprised that he was doing it.
3	A Well, Evelio Tejada.	3	Q Did he say why he was surprised?
4	Q Mr. Tejada is a bartender?	4	A No.
5	A Yes.	5	Q I hate to ask these questions but I feel
6	Q And Larry and --	6	I have to. What color is Larry's hair?
7	A They're servers. Francisco.	7	A It's light brown.
8	Q They're servers. They wait tables?	8	Q His eyes?
9	A Yes. We had to change the name on that.	9	A I don't know.
10	Q Right. And Mr. Tejada is a bartender	10	Q What about Francisco's hair?
11	where?	11	A He doesn't have any anymore.
12	A He's in the Champagne Bar, Rose Club.	12	Q Okay. And --
13	Q What did you talk to Larry about with	13	A He's got brown eyes.
14	respect to this lawsuit?	14	Q You saw his eyes -- brown, okay. You
15	A No. We were just talking, discussion,	15	said he's Spanish?
16	that I got a subpoena, and he was -- you know,	16	A Yeah.
17	we were just saying what happened with Carlos	17	Q Where is he from?
18	and why he was suing.	18	A Dominican Republic.
19	Q What did Larry say?	19	Q Now, in nineteen -- you started at the
20	A He just said, yeah -- I mean, he says	20	Plaza 1988, correct?
21	understands what he's doing.	21	A Yeah. Actually, I started prior, in
22	Q So in other words, what I'm trying to	22	'86, and I left and came back so my new hire
23	find out I guess is, did Larry find out about	23	date would be '88.
24	the lawsuit from you?	24	Q And you were only there for a couple --
25	A Yes.	25	for a short period of time in '86?

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1	L. FLANAGAN	1	L. FLANAGAN
2	A Yeah. Ten months.	2	a member of local 6?
3	Q When you started at the Plaza in 1986 --	3	A No.
4	strike that.	4	Q Is it true today that all the bartenders
5	You're a union delegate today?	5	at the Champagne Bar, the Rose Club, and the
6	A Yes.	6	servers at the Palm Court -- are they all
7	Q When did you become a union delegate?	7	local 6 union --
8	A When they reopened the hotel.	8	A Yes.
9	Q In February 2008?	9	Q -- members? Do you know whether or not
10	A Yes.	10	the local can refuse membership to somebody?
11	Q And a union delegate is like a shop	11	A I don't know if they can, but what
12	steward, right?	12	they -- generally if they hire somebody, I
13	A Yeah, same thing.	13	know they have to join the union within a
14	Q You're not a union officer?	14	certain -- they can't work in the hotel and
15	A No.	15	say I don't want to be a union member. So
16	Q And Mr. Cedeno is the business agent?	16	they have to join the union.
17	A Yes.	17	Q Do you know if the union has any say in
18	Q And he doesn't work in the hotel, right?	18	who becomes a member of local 6?
19	A No.	19	A No. As far as I know because I -- when
20	Q He works at the office --	20	the hotel closed, I worked in the Four Seasons
21	A At the office. Right.	21	when the Plaza closed, and the policy seems to
22	Q Who held your position as union delegate	22	be the same everywhere, more or less, that if
23	when the hotel closed in 2005?	23	you hire someone, if they weren't in the union
24	A Would have been Jean Oliver.	24	before, you know, it's okay -- and then they
25	Q And what happened to Jean?	25	just have to -- but they have to join.
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1	L. FLANAGAN	1	L. FLANAGAN
2	A Jean, he retired and then he passed	2	Q Okay. And as a result of your
3	away.	3	membership in local 6, the wages you receive
4	Q Did he retire at the time the hotel	4	and the benefits you receive are negotiated
5	closed?	5	between the union and the hotel, correct?
6	A Yeah. He was at that age, sixty-five,	6	A Yes. Industry-wide agreement.
7	and he took the severance, you know.	7	Q Right. And have you worked as a
8	Q And am I right from your earlier	8	bartender where you haven't been a member of
9	testimony that quite a few people did that who	9	the union?
10	were --	10	A Yes. I worked in an Irish pub.
11	A Yes. Yes, a lot of people that had been	11	Q Okay. Just -- is there a difference --
12	there a long time.	12	is it -- the question is, it better to be a
13	Q Okay. Now, in 1986, when you first	13	member of the union of local 6 than not to be
14	started to work at the Plaza, were you a	14	a member of local 6 if you're a bartender in
15	member of the union?	15	New York?
16	A Yes. You have to -- you automatically	16	A There's -- if you're going to stay for
17	have to join, after three months you're a	17	longevity you're definitely better in the
18	member.	18	union because you get medical benefits and
19	Q What's the name of the union?	19	pension, but if you're young and you want to
20	A It's local 6. Hotel restaurant	20	make fast money then you work in the Irish
21	bartenders union.	21	bars.
22	Q So since your entire tenure at the Plaza	22	Q So there's more -- working in the Irish
23	Hotel you have been a member of local 6?	23	bars would be more cash per hour than working
24	A Correct.	24	at the Plaza?
25	Q Prior to working at the Plaza, were you	25	A Wouldn't be more cash per hour, it would

<p style="text-align: right;">Page 85</p> <p>1 L. FLANAGAN</p> <p>2 be more cash money you make, you know.</p> <p>3 Q And when you talk about cash money you</p> <p>4 make, we're talking about money that --</p> <p>5 A Tips.</p> <p>6 Q Tips, okay. You get tips at the Plaza,</p> <p>7 right?</p> <p>8 A Yes.</p> <p>9 Q Are the tips at the Irish bars better</p> <p>10 than the tips at the Plaza?</p> <p>11 A Well, yeah. Tips in the Plaza would be</p> <p>12 credit cards and tips in the Irish club is</p> <p>13 cash.</p> <p>14 Q And why is it better to have cash than</p> <p>15 credit card?</p> <p>16 A Well, it's in your pocket, you know, you</p> <p>17 have it right there.</p> <p>18 Q Right.</p> <p>19 A Tax purposes it's -- you don't pay as</p> <p>20 much.</p> <p>21 Q Okay. But as an overall amount, putting</p> <p>22 aside the tax ability of it, from just a gross</p> <p>23 standpoint, is it better to work in the Irish</p> <p>24 pub?</p> <p>25 A No. Hotel is better.</p>	<p style="text-align: right;">Page 87</p> <p>1 L. FLANAGAN</p> <p>2 Q Max, okay. But if you don't choose to</p> <p>3 do the 401K plan, you're still a part --</p> <p>4 A You have still have a pension, yeah.</p> <p>5 Q And you established that the 401K has</p> <p>6 been in operation at the Plaza for -- or with</p> <p>7 the union for the last five years, so the</p> <p>8 folks who retired back when the Plaza closed</p> <p>9 in 2005, those folk's would not have been --</p> <p>10 A They -- no.</p> <p>11 Q So they chose to retire as far as you</p> <p>12 know based on their pension with the union</p> <p>13 plan?</p> <p>14 A The pension with the union, obviously</p> <p>15 Social Security as well.</p> <p>16 Q Right.</p> <p>17 A The pension work is that you have to --</p> <p>18 like, you get one credit for every thousand --</p> <p>19 for every year but you have to work a thousand</p> <p>20 hours a year to get the credit and if it's up</p> <p>21 to twenty-five credits.</p> <p>22 Q And do you know what the age limit is</p> <p>23 for the folks collecting the pension at the</p> <p>24 union, what the earliest age you could be to</p> <p>25 collect the pension?</p>
<p style="text-align: right;">Page 86</p> <p>1 L. FLANAGAN</p> <p>2 Q And the union -- you have a pension plan</p> <p>3 with the union?</p> <p>4 A Yes.</p> <p>5 Q And how would you describe that -- is it</p> <p>6 a good plan, a bad plan, a fair plan?</p> <p>7 A Compared to other plans, it's not</p> <p>8 great, but, you know, it's good. I mean, for</p> <p>9 someone -- like a bartender all my life, it's</p> <p>10 good to have a pension. I mean, most of the</p> <p>11 bartenders that I know, they don't have</p> <p>12 anything to fall back on.</p> <p>13 Q And is that pension something that you</p> <p>14 contribute to out of your paycheck each week?</p> <p>15 A It comes from your union dues. You pay</p> <p>16 dues every week.</p> <p>17 Q You're not part of a 401K plan, are you?</p> <p>18 A You have that as well.</p> <p>19 Q You can have that?</p> <p>20 A You can have that. What they do is --</p> <p>21 it just came out the last five years, and you</p> <p>22 can deduct a percentage out of your paycheck,</p> <p>23 ten, fifteen, or even twenty-five percent, but</p> <p>24 they only take out fifteen thousand a year</p> <p>25 maximum.</p>	<p style="text-align: right;">Page 88</p> <p>1 L. FLANAGAN</p> <p>2 A The newest agreement was you have to be</p> <p>3 fifty-five and twenty-five years in the union</p> <p>4 and you get partial --</p> <p>5 Q And then that would increase the older</p> <p>6 you are and then the more --</p> <p>7 A Yes, exactly.</p> <p>8 Q And the years would decrease, I</p> <p>9 suppose -- in other words, if I'm sixty-five</p> <p>10 and I retire, I don't need the</p> <p>11 twenty-five years --</p> <p>12 A Yes, yes.</p> <p>13 Q And besides the pension, any other</p> <p>14 benefits that are better being in the local 6</p> <p>15 than just being a bartender at the Irish pubs?</p> <p>16 A Yeah. You have the medical, you have</p> <p>17 the dental.</p> <p>18 Q Anything else that you consider a</p> <p>19 benefit?</p> <p>20 A I consider -- like if you're there</p> <p>21 over -- if you're vested, if you're there five</p> <p>22 years in the union, like, they can provide --</p> <p>23 if you're buying a house, you know, a mortgage</p> <p>24 or a lawyer, closing fees, stuff like that.</p> <p>25 Q I take it in the Irish pubs there wasn't</p>

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1	L. FLANAGAN	1	L. FLANAGAN
2	a union delegate hanging around?	2	things out.
3	A No.	3	Q You did talk to Mr. Evangelista about
4	Q What's your role as a union delegate?	4	it, right?
5	A Say, just like we have a schedule, you	5	A Yes.
6	know, seniority people have their own	6	Q And he did go -- had a conversation with
7	schedule, you know, if we have rules and	7	someone at human resources?
8	overtime, and you just enforce -- like, our	8	A That's what he told me, right.
9	managers change quite a bit, you know, they	9	Q And you weren't in that?
10	come for a year and a half and then they leave	10	A No.
11	to go somewhere else. So sometimes people	11	Q You weren't a part of that --
12	come in from different countries and they	12	A He just came back -- I had a discussion
13	don't know, you know, that it's a union or,	13	with him, he says, listen, I'm going to talk
14	you know, they try to enforce their way of	14	to human resources, I'll get back to you. He
15	doing things.	15	came back to me and says this is what they
16	Q So as a union delegate are you there to	16	said.
17	answer questions for the rank and file or	17	Q And he said that Mr. Rivera --
18	employees that were inquiring --	18	A And Evelio are going to stay in the
19	A Yes.	19	service bar.
20	Q -- about union issues?	20	Q Stay in the service bar. And again,
21	A Yeah.	21	you weren't there to see whether or not
22	Q And are you there also as an advocate	22	Mr. Rajan --
23	for them should they have issues with	23	A I wasn't in the meeting, no.
24	management?	24	Q -- whether or not anybody consulted a
25	A Yes.	25	list that had been -- you weren't in the room
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1	L. FLANAGAN	1	L. FLANAGAN
2	Q And am I correct that you would be	2	when Mr. Evangelista met with Mr. Lai,
3	the first person someone would go to if they	3	correct?
4	had -- or should go to if they had an issue	4	A Correct.
5	with management that they needed to be	5	Q And you're not aware during that meeting
6	resolved?	6	whether or not either Mr. Evangelista or Lai
7	A Yes. If -- a lot -- most of it's done	7	looked at or conferred with a list regarding
8	verbally, you know, minor issues then we work	8	seniority that had been provided to them by
9	it out among ourselves, but if they had to	9	the union?
10	write somebody up or whatever, I would have to	10	A Correct. I don't know what they
11	be there as a witness.	11	discussed.
12	Q Right. So in other words, if they're	12	Q Do you know whether or not the union
13	going into for a disciplinary meeting with	13	keeps a list of seniority?
14	the --	14	A I'm not sure. I believe so. They do,
15	A Yeah, we need a delegate. So --	15	because when we got laid off and we had
16	Q Right. So when you were the union	16	meetings they had lists of peoples seniority.
17	delegate, Mr. Rivera came to you and said I	17	Q Take a look at P4 which was previously
18	have an issue with seniority?	18	marked, titled, Plaza Bartender Seniority
19	A We discussed it. But what happens is	19	List.
20	that when it becomes a mid -- like a serious	20	A Yeah, I got it.
21	issue, you bring in the business agent because	21	Q Do you know who made that list?
22	I would have talked to Anthony Evangelista	22	A No.
23	about it, and he would say, well, it's human	23	Q On the -- on the upper right-hand side
24	resources decision, and then we'd call a	24	of that there's a -- if you turn the document
25	business agent and he would come in to square	25	around it would be on the lower right-hand

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1	L. FLANAGAN	1	L. FLANAGAN
2	side, it says, Union 00196, do you know what	2	Now, take a look again at what we marked
3	that means?	3	as P1. It's the -- it says March 2005 on the
4	A I haven't a clue.	4	top of it. It's the first exhibit.
5	Q So you don't know whether or not your	5	A Yes. This one, right?
6	union produced this list to Mr. Zapata in	6	Q Yes. Marked P1?
7	response to a subpoena?	7	A Yeah.
8	A Correct.	8	Q Okay. Do you know whose handwriting
9	Q You don't --	9	appears on this document?
10	A I don't know.	10	A No.
11	Q Now, what was Mr. Lai's position back in	11	Q All right. Under the service bar, who
12	2005 when the hotel closed?	12	is the Evelio?
13	A He wasn't there.	13	A That's Evelio Tejada.
14	Q He wasn't there?	14	Q Now, Rubin --
15	A He didn't work there.	15	A Smith.
16	Q Mr. Evangelista did?	16	Q Rubin Smith didn't come back when the
17	A Correct.	17	hotel opened, did he?
18	Q And then Mr. Evangelista I think	18	A No.
19	according to your testimony has his own	19	Q And do you know whether or not he
20	business -- or had?	20	accepted the no recall right two weeks
21	A Him and -- we had one of the chefs and	21	severance?
22	another manager, they opened up their own	22	A Yeah. He retired --
23	restaurant in the meatpacking district,	23	Q Jose, do you know whether he accepted
24	restaurant and bar, and a -- it went under,	24	the two week severance?
25	you know, so the hotel was reopened, so he	25	A Yes. He worked in another hotel and he
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1	L. FLANAGAN	1	L. FLANAGAN
2	came back to work there.	2	was happy enough there so he stayed.
3	Q So Evangelista opens the bar after the	3	Q Sammie, did he accept the --
4	Plaza closes?	4	A He retired, yeah.
5	A Correct.	5	Q And Carlos we know came back, right?
6	Q And then when the Plaza reopens he comes	6	A Uh-huh.
7	back?	7	Q Arbonna?
8	A Yes.	8	A Arbonna. That's Jose. He's back
9	Q And according to your testimony, he	9	working in the Oak Bar.
10	brought some of the people who worked with him	10	Q Okay. Orlando?
11	down --	11	A He's back in the Oak Bar as well.
12	A Yeah.	12	Q So Carlos Arbonna and Orlando all were
13	Q Called the Gin Mill?	13	taking the one week --
14	A Gin -- Gin Lane.	14	A Yes.
15	Q The Gin Lane, okay. So Mr. Lai had	15	Q -- severance package?
16	never seen Mr. Rivera behind the bar at the	16	A Yeah.
17	Plaza Hotel, as far as you know, back in 2005?	17	Q And Victor?
18	A Correct.	18	A Victor, no. He's working in the Essex
19	Q Okay. So it's possible then that if a	19	House now.
20	bartender comes to Mr. Lai and says I was the	20	Q Do you know if whether or not Victor
21	front bartender at the Oak Room in 2005,	21	took the two weeks --
22	Mr. Lai would either have to take his word for	22	A He would have, yeah.
23	it or look at perhaps a document like the	23	Q And again, if you took the two weeks
24	seniority list, correct?	24	severance you were off the seniority?
25	A Correct.	25	A Yeah. You were --

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1	L. FLANAGAN	1	L. FLANAGAN
2	Q You --	2	question.
3	A You were finished with the hotel --	3	A I was part time at the Four Seasons, you
4	Q I mean, you weren't --	4	see.
5	A You had -- what you had, you had the	5	Q And Yvenel?
6	option as well of taking one week and the	6	A Yvenel, he took the two weeks.
7	option, you know, when you came back taking	7	Q And Paul?
8	the second week. Some guys did that, they	8	A He retired.
9	kept it open and then, you know, three years	9	Q Took the two weeks?
10	down the line when we opened, they said I'm	10	A Uh-huh.
11	happy where I am now and they just collected	11	Q Julio?
12	the --	12	A He took two weeks.
13	Q So I see. So if I chose to take the	13	Q And Wahid?
14	one week severance with the recall right, then	14	A He -- yeah, he moved to Florida. He
15	when I do get recalled I can say, you know	15	took two weeks.
16	what, give me the second week?	16	Q And now a bartender is a bartender is a
17	A Correct.	17	bartender -- if you were a service bartender,
18	Q And then I won't bother you, I wont come	18	you make drinks, right?
19	back --	19	A Correct.
20	A Yes.	20	Q And if you work in the front bar, you
21	Q -- I'm happy with whatever I'm doing --	21	make drinks, right?
22	A Yes.	22	A Uh-huh.
23	Q -- whether it's I'm retired or working	23	Q Yes?
24	at a new place?	24	A Correct.
25	A Correct.	25	Q And the only difference is one is you're

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1	L. FLANAGAN	1	L. FLANAGAN
2	Q So I'm sorry -- Victor, he took the	2	doing the room service or the restaurant and
3	two weeks?	3	the other is you're doing the bar crowd,
4	A Yes.	4	correct?
5	Q And he's working at the Essex House --	5	A Correct.
6	A Yes.	6	Q And is there a difference in hourly pay
7	Q -- seems very happy?	7	for the people who are service bartenders?
8	A Yes.	8	A In the contract there is. In the -- the
9	Q Felipe -- do you know what Felipe did?	9	hourly pay in the old hotel is the service
10	A He retired.	10	bartender would get a dollar fifty more an
11	Q So he took the two weeks?	11	hour because he wouldn't be making tips. So
12	A Yes.	12	now when we reopened or came back we all get
13	Q And Leo?	13	the same pay, we all get the higher rate
14	A He's in the Hilton now, so he took	14	because he eliminated the bar-back position so
15	two weeks as well.	15	we're doing that job now, so we're all in the
16	Q And Liam is you, so you took the	16	same rate.
17	one week --	17	Q Whether you're a service bartender or a
18	A Correct.	18	front bartender you make --
19	Q -- and came back? And in the meantime	19	A Same rate, yes.
20	you were working at the --	20	Q Now -- but is there an impact on your
21	A Four Seasons.	21	compensation?
22	Q -- Four Seasons? Much better at the	22	A I -- how do you mean?
23	Plaza, right?	23	Q Well, if you're a service bartender, are
24	A Yeah --	24	you sharing the tips from the front bars?
25	Q You don't have to -- I'll withdraw the	25	A No, no, no, no. That's the main reason,

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1	L. FLANAGAN	1	L. FLANAGAN
2	the front bar is a tip job, you know, you	2	Q And he gets the tip?
3	make -- you make a lot more money.	3	A Yes.
4	Q So if I'm -- if I'm starting as a new	4	Q And do the service bartenders make
5	bartender at the Plaza Hotel, what is my	5	drinks for the restaurant?
6	hourly rate?	6	A Yeah. Like the Palm Court -- Palm
7	A Your hourly rate would be sixteen an	7	Court would have its own service bar just for
8	hour.	8	that -- just for that place itself.
9	Q And do you know what the top rate is?	9	Q Got you. And are you telling me that
10	A Yeah. Twenty-six.	10	the waiters don't share the tips with the
11	Q And that's based on seniority?	11	service bartenders?
12	A Yes -- what they've done now is that	12	A They don't.
13	when they reopened the hotel they negotiated	13	Q Are they supposed to?
14	it so for a new hire for the first two years	14	A Most hotels do, but people are set in
15	he would get seventy-five percent of the top	15	their ways, they're there for a long time.
16	rate, for the next two after that it's	16	Q Is that a negotiated agreement?
17	eighty-five, and then the fifth year he gets	17	A No. It's individual hotels, but you
18	the full amount.	18	can -- if you wanted to fight the situation
19	Q Okay. And that was renegotiated -- or	19	you could, and technically most hotels, they
20	negotiated after the hotel reopened?	20	give like ten percent of the tips, like if
21	A Yeah, they -- what they do is they call	21	it's a cocktail bar or a service bar, but at
22	it -- because the mayor got involved so they	22	the Plaza we never did.
23	call it a citywide agreement or a city hall	23	Q And is that true of the Palm Court
24	agreement so it's some kind of different	24	too that --
25	contract but --	25	A Yes.
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1	L. FLANAGAN	1	L. FLANAGAN
2	Q Okay. But -- so if I'm making my -- the	2	Q -- the Palm Court service bar doesn't
3	sixteen bucks an hour and I'm working in the	3	get any tips --
4	Oyster Bar, I'm getting sixteen dollars an	4	A No.
5	hour for every hour I work -- what else am I	5	Q -- from the waiters? But not that's
6	getting?	6	negotiated?
7	A It depends on the business, whatever,	7	A No.
8	tips. You know, if you're busy, you're going	8	Q It's just the --
9	to make the money. If it's slow, you just --	9	A The way it is, yeah --
10	you make less. It depends --	10	Q Now, looking at the P1 which is the
11	Q I'll make -- not going to make less than	11	March 2005 schedule, what happened to Chuck?
12	like sixteen bucks?	12	A Chuck, he got a job in the Ritz-Carlton,
13	A Yes. It's definitely more.	13	and he just took the second week then, you
14	Q And if I'm in the service bar --	14	know. He kept it open until -- he's happy --
15	A That's your flat rate.	15	Q But eventually he took the two weeks?
16	Q Sixteen bucks an hour?	16	A Yeah.
17	A Yeah.	17	Q Okay. And he didn't come back?
18	Q And I'm making drinks for the guests in	18	A No.
19	the hotel rooms?	19	Q And Ricky?
20	A Yes, but the -- yes, but the waiter's	20	A Ricky actually is the bartender in
21	interacting with the guests so he gets the	21	banquets right now in the hotel, but that's a
22	tips.	22	private concession as well.
23	Q Right.	23	Q I'll ask you more questions about that
24	A So you give him the drink, he brings it	24	in a second. So he's back?
25	to the guest.	25	A Uh-huh.

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1	L. FLANAGAN		
2	Q And Evelio came back, right?		1 missing?
3	A Correct.		2 A Well, there's no -- there's -- I suppose
4	Q And whose Osvaldo?		3 the schedule for the banquet bartenders isn't
5	A Osvaldo was a service bartender in the		4 up there. So that week there might have been
6	Palm Court and he took the two weeks.		5 no banquets, you see.
7	Q Took the two weeks. And now -- now we		6
8	have people who are bar-backs here, but you're		7 Q Okay. So let's talk about the banquet
9	telling me now there's no bar-back positions?		8 bartenders and what -- what is banquets as
10	A Yes. So what happened there is guys		9 appears on the schedule?
11	took the two weeks, and like Jorge and Jose,		10 A Yeah. Banquets is like, we have a
12	the third name down, they gave them jobs as		11 landmark ballroom and a terrace room which can
13	food runners, so basically it's the same		12 can hold like five hundred people for dinner,
14	hourly rate.		13 so what would happen is people would have a
15	Q So they got their two weeks and then		14 wedding or a company Christmas party and they
16	they have a new job position?		15 would need bartenders to work the party, so
17	A They got the one week and then --		16 what they would do is we had five full-time
18	Q The one week, all right. But those jobs		17 bartenders so sometimes Christmastime -- we
19	are eliminated?		18 had a lot of small rooms as well for small
20	A Yes.		19 functions -- so you would have five full-time
21	Q You're now doing that work?		20 bartenders, banquet, and then the service
22	A Correct. I didn't have to do that in		21 bartenders would go in as extras if you had
23	the Irish bars.		22 enough bartenders upstairs. And the hotel
24	Q You did or didn't?		23 would charge a hundred and twenty dollars per
25	A I didn't. We had --		24 bartender, and the bartenders would get sixty
			25 and the hotel would get sixty.
		Page 106	Page 108
1	L. FLANAGAN		
2	Q And of course you shared your tips with		1 L. FLANAGAN
3	those people?		2 Q And where would these bartenders come
4	A Yes, yes. Gave them fifteen percent.		3 from, the banquet bartenders, were they guys
5	Q Do you know what happen to Angelo,		4 who --
6	Andre, and Trinidad?		5 A They're permanently in the hotel.
7	A Actually, Andre is in banquets as well.		6 Q So they're the Oak Bar, Oyster Bar guys?
8	He got a promotion to banquet bartender.		7 A No. What it was is we had banquet
9	Q And Trinidad?		8 bartenders, five full-time bartenders, okay,
10	A He's -- actually, he's working in the		9 and when you needed the extra guys you would
11	Hilton down here somewhere as a bartender.		10 take the service bartender guys because they
12	He's at Hilton around here.		11 weren't making tips so they would get the
13	Q So he would have taken two weeks?		12 banquet party first.
14	A Yeah.		13 Q Okay. So if I'm a full-time banquet
15	Q And Jose -- Jose, I'm sorry, you said --		14 bartender and through some quirk the hotel is
16	Angelo?		15 not scheduled a wedding or a party for
17	A Angelo is gone. He took the two weeks.		16 two weeks, what am I doing?
18	Q All right. So out of this list -- now,		17 A You see -- well, it's not on here. The
19	is this everybody who was a bartender in		18 way it was worked in the hotel with the
20	March 2005 that you recall -- is this the		19 bartenders and the waiters and banquets, the
21	complete list?		20 banquet waiters would get a -- tips, right,
22	A It may not be the complete list. It		21 say it's twelve percent of what the sales was,
23	could be short a few guys there. I'm not		22 the bartenders never got that, we got a
24	sure.		23 hundred and twenty dollars, but you were
25	Q Anybody sticking out in your head as		24 guaranteed thirty-five hours a week work. So
			25 what they would do is like if it was quiet in

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1	L. FLANAGAN	1	L. FLANAGAN
2	banquets and there's only work for two or	2	front bartender, say from Thanksgiving onto
3	three guys, they would put one guy on the	3	Christmas, say if you worked -- Carlos would
4	schedule two to ten, and then he would relieve	4	be a day bartender, they might ask him to work
5	all the bartenders for their break.	5	sometimes at the night because they're short,
6	Q So you were guaranteed some hours --	6	you know.
7	A Yes.	7	Q So Carlos worked as a service bartender
8	Q -- at the -- I guess at the union rate?	8	at some point?
9	A Yes. You were guaranteed	9	A Yes. That's how you -- this is how it
10	thirty-five hours a week. But a lot of guys	10	starts out. You come into the hotel, right,
11	they wouldn't take -- in the summertime	11	you start as a bar-back or a service
12	instead they'd just take off, you know.	12	bartender, then you move up as guys retire,
13	Usually the banquet guys are the senior guys,	13	you know, leave, and if a slot becomes open,
14	they're there thirty, forty years, so they're	14	whoever is the senior service bartender would
15	just -- you know, it's easier work and you're	15	move into the front bartender position.
16	just waiting for the pension to come through.	16	Q Okay.
17	So -- you know, they're guaranteed	17	A Like a ladder.
18	thirty-five hours a week, but a lot of them	18	Q Then once you're a front bartender
19	wouldn't take it, for -- they wouldn't mind	19	position it's unlikely that you'll be doing
20	taking the extra day off.	20	any banquet work?
21	Q It's not as if they were -- if they	21	A On like -- on occasion, yes, when it's
22	didn't come in, they wouldn't get paid?	22	really busy at Christmastime and they're
23	A They wouldn't get paid.	23	stuck, but it's very rare, yeah, because
24	Q Right. But they were guaranteed --	24	you're making tips, and the service bar guys
25	A But if they're forced, they were	25	don't make it, so, you know, they're entitled
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1	L. FLANAGAN	1	L. FLANAGAN
2	guaranteed --	2	to the banquet first.
3	Q Right. They would put them somewhere,	3	Q And you're aware that Mr. Rivera worked
4	they'd --	4	banquets?
5	A Yeah, yeah.	5	A Yes.
6	Q -- throw them behind the Oak Bar or	6	Q Okay. And you were there?
7	behind --	7	A Yes.
8	A Service bar.	8	Q Mr. Lai wasn't there, wouldn't have
9	Q Yeah. Someplace so they can do	9	known --
10	something.	10	A He would not --
11	A Yeah.	11	Q -- unless, of course, somebody had
12	Q But their primary job was to work the	12	provided him with the list, right?
13	banquets --	13	A Say that --
14	A Private functions.	14	Q Unless somebody provided him with a list
15	Q Okay. And during 2005 and before that,	15	and said where Mr. Rivera had worked?
16	had you ever worked in banquets?	16	A Yeah, correct.
17	A I did, yeah. When I was a service	17	Q So looking at P1 again, and excluding
18	bartender I worked banquets.	18	the bar-backs --
19	Q And -- and Carlos worked banquets,	19	A Yeah, P1. Yeah.
20	right?	20	Q -- I count nineteen bartenders --
21	A Correct.	21	A Uh-huh.
22	Q And if he was a front bartender, why was	22	Q -- and it looks like, based on your
23	he working the banquet?	23	testimony -- I actually count eighteen
24	A No. He would work that back in the	24	bartenders -- and based on your testimony, it
25	service bar. We would -- even when you were a	25	looks like twelve of them essentially took the

		Page 113	Page 115
1	L. FLANAGAN		L. FLANAGAN
2	two weeks and retired?		Q -- and you said she has blond hair?
3	A Yes.		A Yes.
4	Q So when the hotel reopened I guess they		Q Is that natural blond hair?
5	needed to hire a bunch of new bartenders;		A Yeah, she's like -- I want to say it was
6	didn't they?		natural. I mean, I don't know for sure.
7	A Correct.		Q You don't know whether she --
8	Q And if we look at P2 --		A Whether she dyed it or not -- no, I
9	A Yeah.		don't know.
10	Q -- if you exclude the server assistants		Q Same with Heather --
11	and the runners, it looks like we're talking		A She was definitely natural blond. She's
12	about seventeen bartenders?		like Norwegian descent.
13	A No. We're talking about eight.		Q And then Sean O'Toole has brown hair?
14	Q Right. Eight because we had servers --		A Yes.
15	A Yeah.		Q And then you said Miguel Aranda has
16	Q One, two -- and what do -- the servers		brown eyes?
17	are the waiters?		A I would say so, yeah. I mean, he's
18	A Correct.		brown-skinned.
19	Q Now, I'm confused about P2 because you		Q Without looking at Mr. Rivera, what
20	testified that you started back at the Plaza		color are his eyes?
21	when it reopened in February of '08?		A I would say brown.
22	A Uh-huh.		Q Why would you say that?
23	Q This schedule is for January of '08 --		A Generalization mostly, Spanish guys are
24	why is that?		brown.
25	A I can't tell you. I believe it was		Q You a baseball fan?
		Page 114	Page 116
1	L. FLANAGAN		L. FLANAGAN
2	February we were called back to work. Because		A Yeah.
3	we didn't open till March 1st, the Champagne		Q Yankees?
4	Bar, so anything prior to March 1st would have		A Yes.
5	been a training schedule, but this --		Q And you live in Queens?
6	Q So you don't know why this -- there's		A I lived in the Bronx when I came out
7	January dates in there?		here first.
8	A No.		Q Who is the third baseman?
9	Q And is it true today that at the		A Alex Rodriguez.
10	Champagne Bar and the Rose Club there are		Q What color are his eyes?
11	eight bartenders?		A I don't know.
12	A It's -- yes.		Q They're light green -- would that
13	Q What's the server assistant?		surprise you since he's Hispanic?
14	A It's a busboy.		A Yeah. Maybe contact lenses.
15	Q Okay. And runners are --		Q Do you know who the actress Cameron Diaz
16	A Yeah, you see, when they changed the		is --
17	hotel, they put the kitchen in basement so		A Yes.
18	they needed these guys to bring the food up --		Q -- Something About Mary?
19	it's three floors up so they've got to bring		A Yeah. Hair is blond, yeah.
20	the elevators up.		Q She has blond hair -- would it surprise
21	Q Now, Mr. Zapata asked you a lot of		you that her father is Cuban?
22	questions about people's hair color and eye		A No.
23	color based on P2, and he started with, I		Q Do you know who Christina Aguilera is?
24	guess, Prather Remm --		A Yes.
25	A Yes.		Q What color is her hair?

		Page 117	Page 119
1	L. FLANAGAN		
2	A Depends when you see her.		
3	Q Do you know what her ethnicity is?		
4	A I think her mother is Irish.		
5	Q What about Shakira, do you know who she		
6	is?		
7	A No.		
8	Q But as far as you know, most Hispanic		
9	people have brown eyes?		
10	A Well, the guys I work with, they've		
11	brown eyes.		
12	Q And when you testified earlier that they		
13	had brown eyes, you were testifying it --		
14	testifying it based on your knowledge of		
15	looking into their eyes or just		
16	generalizations about their ethnicity?		
17	A Well, the guys I see every day and I		
18	work with, that would be based on --		
19	Q On actual knowledge?		
20	A Yes.		
21	Q You worked with Mr. Rivera for years,		
22	you didn't know his color, you guessed.		
23	A Generalization. I mean, I would say		
24	they're brown. Let me see them. Am I right.		
25	Q Are they?		
		Page 118	Page 120
1	L. FLANAGAN		
2	A To me, they are.		
3	Q Okay. So --		
4	A When I used to look into men's eyes --		
5	Q What I'm trying to figure out is when		
6	you testified earlier about the color of		
7	people's hair and eyes, were you basing it on		
8	your actual looking at their eyes or based on		
9	the generalizations that Hispanics tend to		
10	have brown hair and brown eyes?		
11	A I'm basing on the fact that the guys I		
12	work with, I see them every day so I -- I		
13	never seen a guy with blue eyes or green eyes.		
14	It would jump out at me if they --		
15	Q The only reason I'm asking you that is		
16	because I asked you Mr. Rivera's eyes without		
17	looking at them and you -- it seems like you		
18	had to guess based on a generalization, and		
19	you work with him a lot, right?		
20	A Yeah, but I mean, I'm not looking into		
21	his eyes all the time. Kind of a strange.		
22	Q But you are looking at Heather Buesing's		
23	eyes and Prather Remm's eyes?		
24	A Yes. I would say they're blue.		
25	Q Do you remember the date that the		
	L. FLANAGAN		
1	impartial arbitrator came out with the award		
2	in favor of Mr. Rivera?		
3	A No, I don't.		
4	Q But you do remember that was the first		
5	time he said anything about suing the company		
6	based on his race, right?		
7	A Yeah. As far as I remember, it was		
8	always we were talking about the arbitration		
9	case, the arbitration case, and then when that		
10	came through, later on he said he was going to		
11	pursue.		
12	Q Do you know why Mr. Rivera didn't pursue		
13	the race during the arbitration case?		
14	A No.		
15	Q Did he talk to you about it --		
16	A No.		
17	Q -- as a union delegate? When he came to		
18	you to have you talk to Evangelista about		
19	seniority --		
20	A He didn't --		
21	Q Hold on. Let me finish the question.		
22	When he came to you to ask you to talk to		
23	Evangelista about the seniority issue, did he		
24	tell you then he thought it was about his		
25			
	L. FLANAGAN		
1	race?		
2	A No, he didn't ask me, actually. I went		
3	down to Evangelista on my own accord.		
4	Q Okay. You went -- you went to follow-up		
5	so --		
6	A Yeah --		
7	Q -- so Mr. Rivera -- let me just --		
8	Mr. Rivera never came to you prior to the		
9	arbitration to complain about his seniority?		
10	A Yes, he did.		
11	Q Okay. When he came to you to complain		
12	about his placement at the hotel upon his		
13	recall, did he tell you prior to the		
14	arbitration that it had anything to do with		
15	his race?		
16	A Yes.		
17	Q And when was the first time he mentioned		
18	that to you?		
19	A The date -- I can't tell what date it		
20	was.		
21	Q How soon before the arbitration?		
22	A Months because it takes a long time to		
23	process the arbitration case. I mean, he was		
24	in the Palm Court for at least I would say a		
25			

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1	L. FLANAGAN	1	L. FLANAGAN
2	year before the case came through so within	2	Eddie Cedeno about it.
3	that time a few times --	3	Q Why not?
4	Q Before the arbitration?	4	A It never came up. We were just
5	A Yes.	5	discussing about his schedule and his
6	Q Before you testified at the arbitration?	6	seniority.
7	A Yes.	7	Q Well, hold on a second. You're the
8	Q And I take it then that when I read the	8	union delegate, one of the rank and file comes
9	transcript of the testimony, you'll testify	9	to the union delegate and says I believe that
10	that Mr. Rivera made some issues about his	10	the reason that they're throwing me as a -- in
11	seniority being because of his race, right?	11	the service bar is because I'm Hispanic, you
12	A No.	12	don't think that warrants telling --
13	Q It didn't come up?	13	A No --
14	A No.	14	Q Hold on -- don't you think that warrants
15	Q Why not?	15	telling the business agent of your local?
16	A Basically he was there -- actually, it	16	A What he believes or what happened?
17	was kind of null and void because what	17	Q No. I want to know what happened.
18	happened was he was going to arbitration to	18	If -- I'm the one asking you if one of your
19	fight for his seniority, and what happened was	19	members -- you're a union delegate, right?
20	the Palm Court restaurant closed down and all	20	A Correct.
21	the waiters over there and the bartenders	21	Q If one of your members comes up and says
22	bumped the new hires so they all got laid off	22	I've been discriminated against because of my
23	and they came to work at Rose Club and	23	race, you put that in your back pocket and
24	Champagne Bar, so by the time we went to	24	walk away?
25	arbitration he was already behind the front	25	A Okay. I'm going to go through step by
	Page 122		Page 124
1	L. FLANAGAN	1	L. FLANAGAN
2	bar, it was just a matter of the compensation	2	step for you.
3	of the money he lost.	3	Q Okay.
4	Q Right. But the reason he wasn't given	4	A We opened up the hotel -- we opened the
5	the seniority is because -- I think you said	5	hotel, Carlos and Evelio are put in the Palm
6	it was the scuttlebutt around the hotel was	6	Court, I'm behind the front bar, now everybody
7	because of his race, right?	7	in the hotel is asking why these two guys who
8	A Correct.	8	were there for so long with seniority aren't
9	Q So why didn't that come up at the	9	behind the front bar, we went to Anthony
10	arbitration?	10	Evangelista, we went to human resources, and
11	A I don't know.	11	they said its in his file that they're service
12	Q Well --	12	bars, we called in the business agent to
13	A I wasn't asked about it.	13	discuss it with him and we discussed it about
14	Q When you went to Mr. Cedeno, the	14	the seniority and about where they should be
15	business agent, you told him that Mr. Rivera	15	working. After that, then nobody budged, we
16	thought it was about his race, right?	16	went to arbitration.
17	A No, I didn't. When I discussed it with	17	Q Okay. I --
18	Eddie, he just gave me the subpoena, and what	18	A When this happened, then as Carlos was
19	we talked about beforehand was all about	19	still working in the Palm Court and we're
20	seniority and about getting his position back,	20	waiting to start, to proceed, he talked to me
21	and the race never came up --	21	about -- he said, I think it's discrimination,
22	Q But according to your testimony,	22	you know, me and Evelio should be behind the
23	Mr. Rivera did mention it to you prior to the	23	front bar and we're not.
24	arbitration, right?	24	MR. McLANE: Can you just read
25	A Yes. But I never had a discussion with	25	that last -- sort of last bit back.

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1	L. FLANAGAN	1	L. FLANAGAN
2	(Whereupon, a portion of the	2	not -- may be more than just a screw up, it
3	testimony was read back.)	3	might have to do with my race?
4	Q When what happened?	4	A Carlos was already after talking to them
5	A After we went to -- after we proceeded	5	himself.
6	with the arbitration case. After we went to	6	Q Talking to who?
7	human resources and they denied him the front	7	A Eddie Cedeno.
8	bar position --	8	Q So Carlos told Eddie before the
9	Q Right.	9	mediation -- before the --
10	A -- and then when we had to file the	10	A Well, he called him in about this,
11	grievance --	11	but he went on later on, I presume, and told
12	Q Right.	12	him --
13	A -- then Carlos starts talking about --	13	Q You presume or you know?
14	Q So sometime between after the grievance	14	A I presume.
15	was filed and the arbitration is the first	15	Q Were you ever in a conversation where
16	time he mentions to you that he thinks this is	16	Mr. Rivera told Mr. Cedeno about his belief
17	discrimination?	17	that his seniority was somehow disturbed
18	A Yes.	18	because of his ethnicity or race?
19	Q And then you told Mr. Cedeno?	19	A No.
20	A No, I didn't tell Mr. Cedeno.	20	Q Other than Carlos telling you that he
21	Q Why not?	21	believed that his seniority problem had
22	A Because we filed already. We filed	22	something to do with his race, did anybody
23	the case already for seniority rights. The	23	else come talk to you about the issue?
24	union -- the union trials, they -- they fight	24	A Yeah. Half the hotel.
25	for your rights as a hotel worker, and then	25	Q All right. Do -- what half?
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1	L. FLANAGAN	1	L. FLANAGAN
2	this case comes along afterwards because they	2	A Okay --
3	won that case. This is his decision.	3	Q Let's do it this way: Give me all the
4	Q I'm trying to figure out whether it	4	names of everybody who came up to you before
5	comes along after or comes along beforehand.	5	the arbitration and said that they believe
6	It seems to me from your testimony is that	6	that Mr. Rivera was discriminated against
7	Mr. Rivera tells you after the grievance is	7	because of his race?
8	filed but before the arbitration that he	8	A Okay. Larry Gobin, Francesco Marquez,
9	believes that this has something to do with	9	Aziz Zaidi, the doorman Freddie -- Freddie, I
10	his race -- those are rights, aren't they?	10	don't know the last name.
11	A Right.	11	Q Freddie the doorman?
12	Q Okay. So I think what I'm hearing is	12	A Yes.
13	that he's telling you that he believes his	13	Q Who else?
14	seniority has been changed because of his	14	A Jose the doorman as well.
15	ethnicity, right?	15	Q Who else?
16	A Correct.	16	A Bartenders from the Oak Car, Carlos --
17	Q And he has a grievance about his	17	Orlando Rivera.
18	seniority, right?	18	Q Hold on. Which of the bartenders at the
19	A Correct.	19	Oak Bar?
20	Q How come you didn't tell anybody that he	20	A Orlando Rivera.
21	said something about his race?	21	Q Who else?
22	A How do you mean tell anybody?	22	A Jose Arbonna.
23	Q Well, did you tell Mr. Cedeno that your	23	Q Who else?
24	rank and file member came to you and told you,	24	A I mean, these are the conversations I
25	hold on a second, this seniority thing may	25	remember. I mean, there's other people said

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1	L. FLANAGAN	1	L. FLANAGAN
2	it to me as well but I can't remember where	2	A The bartenders, in other words.
3	and when.	3	Q And prior to them being the only two
4	Q Tell me what you remember? Is that all	4	bartenders in the -- Hispanic bartenders in
5	the people you remember?	5	the department, how many bartenders --
6	A Yes.	6	Hispanic bartenders in the department were
7	Q So you remember having conversations	7	there?
8	with seven people?	8	MR. ZAPATA: Objection as to
9	A Yeah. Other people were coming up to me	9	form.
10	saying what's going on.	10	MR. McLANE: Yeah.
11	Q What kind of other people?	11	Q Did you understand that question? Let
12	A People that work there. Cooks in the	12	me try it this way: So after -- after the
13	cafeteria.	13	hotel reopened, the only two bartenders of
14	Q What were the cooks in the cafeteria	14	Hispanic origin at the Plaza were Evelio and
15	saying about Carlos?	15	Carlos?
16	A They wanted know what -- what was	16	A Correct.
17	happening, what's the progress with the case	17	Q Prior to that, were they more?
18	and --	18	A In the old hotel in two oh five?
19	Q What case?	19	Q Yes.
20	A The seniority case.	20	A Correct, yes.
21	Q What I want to know is, how many people	21	Q Was Orlando Hispanic?
22	came to you and said to you --	22	A Yes.
23	A Yes. These people.	23	Q Did he come back as a bartender?
24	Q These seven people?	24	A Yes.
25	A Yes.	25	Q So somebody was wrong, like, in the --
Page 130		Page 132	
1	L. FLANAGAN	1	L. FLANAGAN
2	Q Was that -- the cooks say that?	2	Larry Gobin --
3	A They were asking about the case. I	3	A No, no.
4	can't remember exactly.	4	Q Who was right?
5	Q Okay. So I take it there are more than	5	A The Oak Bar is separate to the hotel
6	fourteen people who work at the Plaza --	6	now.
7	A Yeah.	7	Q I understand.
8	Q -- so it's not half?	8	A Now, what I'm talking about is that when
9	A Yeah, it's not half. A lot more	9	we reopened the Rose Bar and the Champagne
10	people -- it's common knowledge what was going	10	Bar, all the other bartenders on that bit were
11	on.	11	white. Carlos and Evelio were the two guys
12	Q So tell me what you remember about your	12	that were sent to the Palm Court.
13	conversation with Larry Gobin about Mr. Rivera	13	Q All right. So the Oak Bar still exists,
14	and race discrimination?	14	correct?
15	A You know, he came to me because we work	15	A Correct.
16	together every day, and he said what's going	16	Q Orlando work there?
17	on with Carlos and Evelio, I heard they're	17	A Yes.
18	pissed off, what's going on, I said, yeah, he	18	Q Do you know whether he came back there
19	said, why aren't they over here with you	19	as a result of union citywide agreement?
20	working, I said, human resources said they're	20	A Yes. He --
21	service bartenders, he said, well, we've	21	Q So we have one Hispanic bartender prior
22	worked together for years, all of us, and	22	to the closure who now works in the same exact
23	they're front bartenders, he goes, they're the	23	place he worked when the hotel reopened,
24	only two Spanish guys in the department now.	24	right, just works for a different boss?
25	Q What was the department?	25	A Different company.

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1	L. FLANAGAN		
2	Q Different company, but -- it's still	1	L. FLANAGAN
3	local 6, right?	2	Q Yeah. In other words, if Carlos would
4	A Yes, yes.	3	have taken the two weeks severance, he
5	Q Came back as a result of recall rights?	4	wouldn't be back, right?
6	A Correct.	5	A Correct.
7	Q Okay. What happened to Arbonna?	6	Q Then there would only be one Hispanic,
8	A He's back at work.	7	right?
9	Q At the Oak Bar?	8	A Yes.
10	A Yes.	9	Q If Evelio would have taken it, there
11	Q So another Hispanic bartender face of	10	would be zero, right?
12	the Oak Bar is still a face of the Oak Bar --	11	A Correct.
13	A Correct.	12	Q Do you know if there was anything
14	Q -- after the reopening. Rubin is he	13	discriminatory about the way that the union
15	Hispanic?	14	and the company negotiated the severance
16	A No. He would be -- he's from Saint	15	package?
17	Thomas.	16	A No.
18	Q Jose M, Hispanic?	17	Q Okay. As far as you know, it was evenly
19	A Yes.	18	handed out to everybody?
20	Q He's not back because he took the	19	A Yeah, same for everyone.
21	retirement?	20	Q So regardless if your last name was
22	A Yes.	21	Ramirez or your last name was Smith you got
23	Q Felipe, Hispanic?	22	the same package?
24	A Yes.	23	A Yes. It just depended on how many years
25	Q Only reason he's not back is he took the	24	you were in.
		25	Q Right. But that has nothing to do with
Page 134		Page 136	
1	L. FLANAGAN	1	L. FLANAGAN
2	retirement, right?	2	your nationality, right?
3	A Correct.	3	A Correct.
4	Q Yvenel, is that a Spanish name?	4	Q So when -- when Larry said to you, well,
5	A Haitian.	5	they're the only two guys in the department,
6	Q Haitian, okay. The only reason he's not	6	what did you say?
7	back is because he took the retirement, right?	7	A I said, you're correct, yeah.
8	A Yeah. He's in another hotel.	8	Q And it was correct, right?
9	Q Right. But he's not back --	9	A They're the only two guys that weren't
10	A Yeah.	10	in the Rose Club and Champagne Bar -- that's
11	Q -- where he was? Julio, Spanish?	11	what he meant.
12	A Yes.	12	Q I see. They were the service
13	Q Not back because he had took the	13	bartenders?
14	retirement or took the two weeks, right?	14	A Yes. We had all these new guys come in,
15	A Correct.	15	and you know, it's a union hotel, seniority is
16	Q So it seems to me, correct me if I'm	16	a big thing, and everybody's looking around
17	wrong, that the reason why there are two	17	saying why aren't these guys working behind
18	Hispanic bartenders at the bar is because all	18	the front bar, and he comes to me and says,
19	the other Hispanic bartenders decided not to	19	why aren't these guys -- two Spanish guys are
20	come back, right?	20	sent to the back of the house.
21	A Say that again.	21	Q And that's why you have the union,
22	Q The only reason why it's Carlos and	22	right?
23	Evelio is because everybody else decided to	23	A Correct.
24	take the two weeks severance pay?	24	Q To fight for those kind of issues,
25	A Like they wouldn't be working there?	25	right?

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1	L. FLANAGAN	1	L. FLANAGAN
2	A Yes.	2	your Irish ethnicity at the Plaza Hotel, what
3	Q To fight for injustices, right?	3	would be the course of -- your course of
4	A Correct.	4	action, what would you do?
5	Q That's why people form unions, right?	5	A I'd laugh. I mean, it's different for
6	A Right.	6	different people --
7	Q That's why the people are camping out in	7	Q So tell me if somebody said -- they
8	Wisconsin day and night, right?	8	offended you in some way, is there a -- what
9	A In the cold.	9	I'm trying to figure out is what is your
10	Q Right. So if you're talking to,	10	knowledge of the policy at the Plaza Hotel if
11	quote-unquote, half the people in the hotel	11	somebody who you represent as a union steward
12	about the Hispanic guys who got put into the	12	or union delegate comes up to you and says I
13	service bar, what I can't figure out is how	13	believe I've been discriminated against
14	that doesn't make its way to the arbitration.	14	because of X, Y or Z?
15	Can you explain that?	15	A There is a hotline number. They have a
16	A I can't.	16	number there, some person, like, that you can
17	Q Do you know if Mr. Cedeno can?	17	call. I don't know the number offhand --
18	A I don't know. I've never discussed it	18	Q Is that what human resources is for, to
19	with him.	19	take care of those issues, is that why there's
20	Q You never discussed anything about	20	a human resources department there?
21	Mr. Rivera's race with Mr. Cedeno?	21	A Well, they have another hotline number
22	A No.	22	if you don't want to go to human resources.
23	Q Okay. Even if he says differently	23	Q Did you call the hotline number about
24	then -- and if he testifies otherwise on	24	Mr. Rivera?
25	Monday he'll be a liar?	25	A No.
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1	L. FLANAGAN	1	L. FLANAGAN
2	A Yeah. I never discussed his race. To	2	Q Did you call human resources about
3	the best of my knowledge, anyway, I didn't.	3	Mr. Rivera?
4	Q Did you tell Carlos to go to human	4	A No.
5	resources about this complaint about racial	5	Q Did you talk to any human resources or
6	discrimination?	6	any management employee regarding Mr. Rivera's
7	A No.	7	seniority?
8	Q Are you aware that the Plaza Hotel has a	8	A About his seniority, yes.
9	policy regarding discrimination in the work	9	Q And even though Mr. Rivera told you he
10	place?	10	believed that his seniority had something to
11	A Yes.	11	do with his race, you never mentioned that to
12	Q What is the policy?	12	any management employee at the hotel?
13	A Basically everybody got to be treated	13	A No.
14	the same no matter where you're from or who	14	Q And you never mentioned it to the
15	you are.	15	business agent of the union, did you?
16	Q What happens if you're not?	16	A No.
17	A I don't know. Usually, I mean, it	17	Q What did Francesco Marquez say to you
18	depends on the offense, but I've never had any	18	about Mr. Rivera and the racial
19	situation there with somebody -- oh, yes, we	19	discrimination?
20	had a case before where guys in the Oak Room	20	(Whereupon, an off-the-record
21	filled suit against the hotel for	21	discussion was held.)
22	discrimination.	22	(Whereupon, a short break was
23	Q Did you talk to them about it?	23	taken.)
24	A No. Heard what went down.	24	(Whereupon, a portion of the
25	Q If somebody called you a name based on	25	record was read back.)